

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Justin Charles Moodie, *et al.*
Serial No.: 09/848,262
Filed: May 4, 2001
For: SCHEMES EMPLOYING MOBILE COMMUNICATIONS
Group: 3622
Examiner: Raquel Alvarez

APPEAL BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

ATTENTION: Board of Patent Appeals and Interferences

Sir:

Appellant submits this Appeal Brief in the above-referenced application. A Notice of Appeal was filed on May 15, 2007. The \$510.00 fee associated with this matter and any other fees are authorized to be charged to Deposit Account 11-0600.

REAL PARTY IN INTEREST

Justin C. Moodie and Matthew P. Travers are the real parties in interest for all issues related to this application.

RELATED APPEALS OR INTERFERENCES

There are no other appeals, interferences, or judicial proceedings known to Appellants or Appellants' legal representatives, which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-58 are pending in this application, and claims 18-27 and 37-58 have been withdrawn pursuant to a restriction requirement. Claims 1-17 and 28-36 stand finally rejected, as stated in the final Office Action dated November 16, 2006, and are the subject of this appeal.

STATUS OF AMENDMENTS

Appellants have filed no amendments subsequent to the mailing of the final Office Action dated November 16, 2006.

SUMMARY OF CLAIMED SUBJECT MATTER

There are 6 independent claims involved in this appeal, claims 1, 14-17 and 28.

The embodiment of claim 1 deals with a reward scheme in which users accumulate points in respective user accounts. Par. 27-28. The points are redeemable for rewards. Par. 30. In particular, the embodiment of claim 1 provides for receiving a voucher carrying a voucher code. Figs. 2a and 3, A10, A15, A20; Par. 44-45. The voucher code may be input to a mobile terminal. Figs. 2a and 3, A25, A30; Par. 45. The embodiment of claim 1 also provides for transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address. Fig. 2a, A35; Par. 45.

The embodiment of claim 14 involves a reward scheme in which users accumulate points in respective user accounts. Par. 27-28. The points are redeemable for rewards. Par. 30. In particular, the embodiment of claim 14 provides for receiving a voucher carrying a voucher code. Figs. 2a and 3, A10, A15, A20; Par. 44-45. The voucher code may be input to a mobile terminal. Figs. 2a and 3, A25, A30; Par. 45. The embodiment of claim 14 also provides for transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address, wherein the voucher code may be transmitted together with an address of the mobile terminal. Fig. 2a, A35; Par. 45.

The embodiment of claim 15 deals with a reward scheme in which users accumulate points in respective user accounts. Par. 27-28. The points are redeemable for rewards. Par. 30. In particular, the embodiment of claim 15 provides for receiving a voucher carrying a voucher code. Figs. 2a and 3, A10, A15, A20; Par. 44-45. The voucher code may be input to a

mobile terminal. Figs. 2a and 3, A25, A30; Par. 45. The embodiment of claim 15 also provides for transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address. Fig. 2a, A35; Par. 45. A message may be received at the mobile terminal, wherein the message states a value of the voucher. Figs. 2a and 3, A55, A60; Par. 47.

The embodiment of claim 16 involves a reward scheme in which users accumulate points in respective user accounts. Par. 27-28. The points are redeemable for rewards. Par. 30. In particular, the embodiment of claim 16 provides for receiving a voucher carrying a voucher code. Figs. 2a and 3, A10, A15, A20; Par. 44-45. The voucher code may be input to a mobile terminal. Figs. 2a and 3, A25, A30; Par. 45. The embodiment of claim 16 also provides for transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address. Fig. 2a, A35; Par. 45. A message may be received at the mobile terminal, wherein the message includes a question. Figs. 2b and 4, C25, C30, C35, C40; Par. 49. The embodiment of claim 16 further provides for inputting an answer to the question at the mobile terminal. Figs. 2b and 4, C45, C50; Par. 49. The answer may then be transmitted to the predetermined network address or to another predetermined network address. Figs. 2b and 4, C55; Par. 49.

The embodiment of claim 17 deals with a reward scheme in which users accumulate points in respective user accounts. Par. 27-28. The points are redeemable for rewards. Par. 30. In particular, the embodiment of claim 17 provides for receiving a voucher carrying a voucher code. Figs. 2a and 3, A10, A15, A20; Par. 44-45. The voucher code may be input to a mobile terminal. Figs. 2a and 3, A25, A30; Par. 45. The embodiment of claim 17 also provides for transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address. Fig. 2a, A35; Par. 45. A message may be received at the mobile terminal, wherein the message includes a password. Figs. 2c and 5, E25, E30, E35; Par. 54. The embodiment of claim 17 also provides for submitting the password, together with personal data (Figs. 2c and 5, F10, F15, F20, F25, F30, F35; Par. 55), and receiving a reward (Figs. 2c and 5, F40; Par. 55).

The embodiment of claim 28 involves a reward scheme in which users accumulate points in respective user accounts stored on a database. Fig. 1, AD; Par. 37. The points are redeemable for rewards. Par. 30. In particular, the embodiment of claim 28 provides for receiving from a mobile terminal a message containing a voucher code and an identifying code.

Figs. 2a and 3, A40; Par. 45-46. A points value derived from the voucher code may be added to one of the user accounts selected according to the identifying code. Figs. 2a and 3, A42, A43; Par. 46.

GROUND OF REJECTION TO BE REVIEWED

The final Office Action rejects claims 1-17 and 28-36 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,729,693 to Holda-Fleck ("Holda-Fleck").

ARGUMENT

The rejection under 35 U.S.C. §103(a) over Holda-Fleck should be reversed

Appellants respectfully assert that a prima facie case of obviousness has not been met because all of the claimed limitations are not disclosed, taught or suggested by Holda-Fleck, or rendered obvious by market forces present at the time the claimed invention was made.

With specific regard to claim 28, Holda-Fleck does not disclose a process of adding a **points** value derived from a voucher code to a user account as claimed. Rather, Holda-Fleck provides **monetary rebates** to consumers in the form of telephone bill credits. See, Holda-Fleck Col. 3:24-28. While the Examiner appears to be equating rebates with points by stating that in Holda-Fleck "the rebate amount, points or discounts are added on a periodic basis" (Final Office Action p. 4, citing Col. 5:19-40 of Holda-Fleck), Appellants point out that monetary rebates cannot be reasonably interpreted as the claimed points. Simply put, the ordinary and customary meaning of points to a person skilled in the art does not include currency-based rebates as described in Holda-Fleck. Indeed, to illustrate this fact, one only needs to consider the possibility of one's next paycheck being provided in "points" rather than the usual currency.

With specific regard to claims 1, 14-17 and 28, Holda-Fleck also fails to disclose a scheme in which accumulated points are redeemable for **rewards** as claimed. Rather, Holda-Fleck is limited to a rebate system, as already discussed. Indeed, in Holda-Fleck the telephone bill credits themselves are the end goal of the consumer's activity. By contrast, the claimed approaches require the accumulation of points, which are redeemable for rewards. To the extent that the Examiner may take the position that the claim preambles should not be given patentable weight, Appellants assert that the recited reward schemes are closely related to the claimed vouchers and voucher codes, and therefore breathe life, meaning and vitality into the body of each of the claims.

The Examiner also appears to be asserting that Appellants have allegedly acquiesced in an Official Notice of the claimed points and rewards. Final Office Action p. 4. Appellants direct the Examiner's attention, however, to Appellants previous and timely statement during prosecution that "[t]o the extent that the Examiner has taken Official Notice of the use of points, and the use of points in a rewards scheme as recited in the claims, such Official Notice is traversed. The Examiner is requested to provide references showing such." Response to Final Office Action p. 11-12. The Examiner has not provided the requested references. Accordingly, the Official Notice should be withdrawn.

For at least the above reasons, claims 1, 14-17 and 28 are patentable over Holda-Fleck. Claims 2-13 and 29-36 depend from claims 1 and 28, respectively, and therefore also recite patentable subject matter.

CONCLUSION

Appellants respectfully request reversal of the rejections of claims 1-17 and 28-36. These claims are allowable over the prior art. Appellants further request issuance of a Notice of Allowance.

Respectfully submitted,

Date: October 3, 2007

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CLAIMS APPENDIX

The following claims are involved in this appeal.

1. In a reward scheme in which users accumulate points in respective user accounts, which points are redeemable for rewards, a method comprising:
 - a) receiving a voucher carrying a voucher code;
 - b) inputting the voucher code to a mobile terminal; and
 - c) transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address.
2. A method according to claim 1, wherein step (c) includes transmitting an address of the mobile terminal on the wireless network to the predetermined network address.
3. A method according to claim 1, wherein the address of the mobile terminal is automatically transmitted with the voucher code.
4. A method according to claim 1, further including the step of:
 - d) receiving a message at the mobile terminal stating a value of the voucher.
5. A method according to claim 4, wherein step (d) includes the step of receiving a message stating the number of points in the respective user's account after addition of the value of the voucher.
6. A method according to claim 1, further including the step of:

e) receiving a message at the mobile terminal stating the number of points in the respective user's account after addition of a value of the voucher.

7. A method according to claim 1, further including the step of:

e) receiving a message at the mobile terminal, the message including a question;
f) inputting an answer to the question at the mobile terminal; and
g) transmitting the answer to the predetermined network address or to another predetermined network address.

8. A method according to claim 7, further including the step of:

h) receiving a message at the mobile terminal indicating a number of points added to the respective user's account in response to step (g).

9. A method according to claim 7, further including the step of:

h) receiving a message at the mobile terminal stating that the answer transmitted at step (g) was incorrect.

10. A method according to claim 1, further including the step of:

i) receiving a message at the mobile terminal, the message including a password;
j) submitting said password, together with personal data; and
k) receiving a reward.

11. A method according to claim 10, wherein in step (j) said password and personal data are submitted electronically over a network.

12. A method according to claim 11, wherein step (j) includes the steps of logging into a server over the network using said password, receiving from the server a request for said personal data, and submitting said personal data to the server in response to said request.

13. A method according to claim 10, wherein step (k) includes receiving the reward at a location determined by the personal data submitted at step (j).

14. In a reward scheme in which users accumulate points in respective user accounts, which points are redeemable for rewards, a method comprising:

- a) receiving a voucher carrying a voucher code;
- b) inputting the voucher code to a mobile terminal; and
- c) transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address, together with an address of the mobile terminal.

15. In a reward scheme in which users accumulate points in respective user accounts, which points are redeemable for rewards, a method comprising:

- a) receiving a voucher carrying a voucher code;
- b) inputting the voucher code to a mobile terminal;
- c) transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address; and
- d) receiving a message at the mobile terminal stating a value of the voucher.

16. In a reward scheme in which users accumulate points in respective user accounts, which points are redeemable for rewards, a method comprising:

- a) receiving a voucher carrying a voucher code;
- b) inputting the voucher code to a mobile terminal;
- c) transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address;
- d) receiving a message at the mobile terminal, the message including a question;
- e) inputting an answer to the question at the mobile terminal; and
- f) transmitting the answer to the predetermined network address or to another predetermined network address.

17. In a reward scheme in which users accumulate points in respective user accounts, which points are redeemable for rewards, a method comprising:

- a) receiving a voucher carrying a voucher code;
- b) inputting the voucher code to a mobile terminal;
- c) transmitting the voucher code from the mobile terminal over a wireless network to a predetermined network address;
- d) receiving a message at the mobile terminal, the message including a password;
- e) submitting said password, together with personal data; and
- f) receiving a reward.

28. In a reward scheme in which users accumulate points in respective user accounts stored on a database, which points are redeemable for rewards, a method comprising:

a) receiving from a mobile terminal a message containing a voucher code and an identifying code; and

b) adding a points value derived from the voucher code to one of the user accounts selected according to the identifying code.

29. A method according to claim 28, wherein the identifying code is a mobile network address transmitted by said mobile terminal.

30. A method according to claim 29, wherein the identifying code is transmitted automatically by said mobile terminal.

31. A method according to claim 28, wherein step (b) includes accessing a database of voucher codes, determining from said database whether the received voucher code is valid, and adding said points value only if the received voucher code is valid.

32. A method according to claim 28, including the further steps of:

c) determining whether the points value of the user account meets a predetermined criterion; and, if the predetermined criterion is met:

d) sending a substantially unique password to the mobile terminal.

33. A method according to claim 32, wherein step (d) includes storing said substantially unique password against a respective customer record in said database.

34. A method according to claim 28, including the further steps of:

c) determining whether the points value of the user account meets a predetermined criterion; and, if the predetermined criterion is met:

d) sending a message to the mobile terminal, the message containing a question.

35. A method according to claim 34, including the further steps of:

e) receiving from the mobile terminal a message containing an answer to the question; and, in response to said answer:

f) adding a further points value to the respective user's account.

36. A method according to claim 35, wherein step (f) includes the steps of determining whether the received answer meets a predetermined criterion, and if so, adding the further points value to the respective user's account.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.